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| EXAMINER                            |             |                      |                     |                  |
| HOSSAIN, FARZANA E                  |             |                      |                     |                  |
| ART UNIT                            |             | PAPER NUMBER         |                     |                  |
| 2623                                |             |                      |                     |                  |

DATE MAILED: 10/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/991,525

Applicant(s)

BACSO ET AL.

Examiner

Farzana E. Hossain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 March 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/13/2006 has been entered.

### ***Response to Amendment***

2. This office action is in response to claims filed 08/01/06. Claims 1, 4, 7, 12, 15 are amended. Claims 2, 3, 5, 6, 8-11, 13 are previously presented. Claim 14 is original.

### ***Response to Arguments***

3. Applicant's arguments filed 08/01/06 have been fully considered but they are not persuasive.

The applicant argues that the determining user characteristics of a target viewer, the user characteristics characterizing a viewer selected to view the target content is

performed elsewhere and the user characteristics are sent to and received on a target viewer's receiver device is not found in Zigmond (Pages 8-9).

First of all, the example given by the applicant is not supported in the applicant's disclosure. The examiner requests the applicant to point to the correct section and page in the disclosure, which indicates that the user characteristics and schedule information are received on a target viewer's receiver device as discussed in the arguments.

As the support is not found for the applicant's specific example for targeting user characteristics to a target device, the claim limitation is interpreted as it is currently written versus the argument.

Zigmond discloses determining user characteristics of a target viewer as ad selection criteria, which includes advertisement parameters and ad selection rules are determined by the broadcaster, advertiser and third party operators (Column 8, lines 58-61, Column 11, lines 39-65). Advertising parameters such as description of content, codes that identify the subject matter so that the advertisement may be displayed to an appropriate segment of the viewing population (Column 11, lines 31-49) and also the ad selection rules are determined by the advertisers, the provider or third party operator so that ads can be effectively targeted to a desired segment of a viewing population (Column 11, lines 50-65). Therefore, the ad selection criteria including user characteristics are received on a target viewer's receiver device as the target viewer must receive the ad selection criteria in order to display targeted content (Figure 5, Figure 6).

4. Applicant's failure to adequately traverse the Examiner's taking of Official Notice for Claims 9, 10, 14 in the last two Office Actions is taken as an admission of the facts noticed.

### ***Drawings***

5. The drawings are objected to because of handwritten or hand drawn elements including all numerals. Also, Figure 7 includes arrows over descriptions and Figures 7-11 include half drawn boxes for the flow chart.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 12, 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Zigmond et al. (U.S. 6,698,020 and hereafter referred to as "Zigmond").

Regarding Claims 1, 12, and 15, Zigmond discloses a method for presenting target content to users in a communications network (Abstract, Figure 6), a system (figure 5) for presenting target content to users in a communications network, a storage medium readable by a computer, the medium encoding a computer process to provide a method for target content present in a communications network (Column 6, lines 48-65), the method, the system, and the computer process comprising the steps of: means for determining user characteristics of a viewer (Column 11, lines 13-18), the user characteristics characterizing a viewer selected to view the target content (Column 11, lines 3-12, 31-55, Column 10, lines 46-63), means for receiving the user characteristics (Column 11, lines 31-65) and schedule information (Column 10, lines 64-67, Column 11, lines 1-8) on a target viewer's receiver device (Column 8, lines 58-61, Column 11, lines 1-8, 31-65), means for selecting the target content according to features available on the receiver device (Figure 5, 80, Column 11, lines 31-35 and Column 17, lines 23-25),

means for presenting the target content in accordance with said user characteristics and said schedule information (Column 11, lines 31-49 and Column 17, lines 23-31).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2, 4 9, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond in view of Flickinger et al (U.S. 2002/0083441 and hereafter referred to as "Flickinger") and Eldering et al (US 6,324,519 and hereafter referred to as "Eldering").

Regarding Claim 2, Zigmond discloses the limitations of Claim 1. Zigmond discloses monitoring the program stream for opportunities and content descriptors (Column 15, lines 35-44), however Zigmond fails to explicitly disclose monitoring a programming stream for opportunity descriptors and content descriptors; determining a source for alternate target content; matching the opportunity descriptors to the target content and the user characteristics and determining a source for alternate target content. In an analogous art, Flickinger teaches monitoring a programming stream for opportunity descriptors and content descriptors (Page 5, paragraph 0070). Flickinger discloses each received ad has a tag or opportunity descriptor associated with it describing the characteristics of the ad (Page 6, paragraph 0073). Further, this tag or

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opportunity descriptor can be used by the STB (Figure 2, 200) to determine whether or not to store the received ad (Page 6, paragraph 0074). Flickinger further teaches, matching the opportunity descriptors to the target content and the user characteristics (Page 6, paragraph 0072). Flickinger discloses STB (Figure 2, 200) uses the received tag or opportunity descriptor associated with each received ad and compares the characteristics contained in the ad tag with the STB profile to determine if there is a match. If a match is found the ad is stored and if a match is not found, the ad is ignored (Page 6, paragraph 0074). In an analogous art, Eldering teaches, determining a source for alternate target content (Column 3, lines 26-38). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond to monitor a programming stream for opportunity descriptors and content descriptors (Page 5, paragraph 0070) and matching the opportunity descriptors to the target content and the user characteristics (Page 6, paragraph 0074) as taught by Flickinger in order for the benefit of allowing advertisers to better reach their target audience while increasing the probability the advertisements will be viewed by their target audience (Page 3, paragraph 0045) as disclosed by Flickinger. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond to include determining a source for alternate target content (Column 3, lines 26-38) as taught by Eldering in order to determine a source for alternate target content for the benefit of matching advertisements with consumers (Column 1, lines 5-35) as disclosed by Eldering.



Regarding Claim 4, Zigmond discloses all the limitations of Claim 1. Zigmond discloses monitoring the program stream for opportunities and content descriptors (Column 15, lines 35-44). Zigmond discloses checking security rights at a function invocation on the receiver device to determine appropriateness of the target content and if the content is not appropriate, skipping the presenting step (Column 13, lines 48-58). Zigmond fails to explicitly disclose monitoring programming and content streams for opportunity descriptors and content descriptors; pre-matching the opportunity descriptors to the target content and the user characteristics; determining a source for alternate target content; checking security rights at a function invocation on the receiver device to determine appropriateness of the target content; if the content is not appropriate, skipping the presenting step; and updating pre-matched opportunity descriptors for a next function invocation of the receiver device, determining a source for alternate target content. In an analogous art, Flickinger teaches monitoring programming and content streams for opportunity descriptors and content descriptors (Page 5, paragraph 0070). Flickinger discloses each received ad has a tag or "opportunity descriptor" associated with it describing the characteristics of the ad (Page 6, paragraph 0073). Further, this tag or opportunity descriptor can be used by the STB 200 to determine whether or not to store the ad (Page 6, paragraph 0074). Flickinger further teaches, pre-matching the opportunity descriptors to the target content and the user characteristics (Page 5, paragraph 0067). Flickinger discloses the information required to determine whether or not to store the ad could be sent in advance of the ad. Flickinger discloses STB (Figure 2, 200) uses the received tag or opportunity descriptor

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associated with each received ad and compares the characteristics contained in the ad tag with the STB profile to determine if there is a match (Page 6, paragraph 0072). If a match is found the ad is stored and if a match is not found, the ad is ignored (Page 6, paragraph 0074). Flickinger teaches, updating pre-matched opportunity descriptors for a next function invocation of the receiver function (Page 5, paragraph 0067). Flickinger discloses ad tags or opportunity descriptors can be received in advanced so therefore the tags can be matched with the STB profile in order to determine which ads to store before receiving the ads. Eldering teaches determining a source for alternate target content (Column 3, lines 26-38). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond to monitor programming for opportunity descriptors (Page 5, paragraph 0070) and matching the opportunity descriptors to the target content and the user characteristics (Page 6, paragraph 0074) as taught by Flickinger in order to allow advertisers to better reach their target audience while increasing the probability the advertisements will be viewed by their target audience (Page 3, paragraph 0045) as disclosed by Flickinger.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond to include determining a source for alternate target content (Column 3, lines 26-38) as taught by Eldering in order to determine a source for alternate target content for the benefit of matching advertisements with consumers (Column 1, lines 5-35) as disclosed by Eldering.

Regarding Claims 9 and 10, Zigmond, Flickinger and Eldering disclose all the limitations of Claim 2. Zigmond, Flickinger and Eldering fail to disclose viewers profile

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data is encrypted to prevent unauthorized access and storing the files within the facilities of a CA system. However, the examiner gives Official Notice that it is notoriously well known in the art of video distribution systems to keep customer's confidential information in a secured part of a system. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Zigmond, Flickinger and Eldering in order to keep viewers profile data encrypted to prevent unauthorized access for the benefit of securely storing viewer's profiles because such practice would protect confidential information about the subscription service's subscribers.

Applicant's failure to adequately traverse the Examiner's taking of Official Notice for Claims 9 and 10 in the last Office Action is taken as an admission of the fact(s) noticed.

10. Claims 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond in view of Flickinger and Eldering as applied to claims 2 and 4 above, and further in view of Houston (US 6,353,929).

Regarding Claim 3, Zigmond, Flickinger, and Eldering disclose all the limitations of Claim 2. Zigmond, Flickinger, and Eldering fail to disclose updating a secure audit log with a viewing result. In an analogous art, Houston discloses updating a secure audit log with a viewing result (Column 10, lines 1-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond in view of Flickinger and Eldering in order to update a secure audit log with a

viewing result (Column 10, lines 1-30) as taught by Houston for the benefit of ensuring that the privacy of the viewers would be kept confidential.

Regarding Claim 5, Zigmond, Flickinger and Eldering disclose all the limitations of Claim 4. Zigmond, Flickinger and Eldering fail to disclose updating a secure audit log with a viewing result. In an analogous art, Houston discloses updating a secure audit log with a viewing result (Column 10, lines 1-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond in view of Flickinger and Eldering in order to update a secure audit log with a viewing result (Column 10, lines 1-30) as taught by Houston for the benefit of ensuring that the privacy of the viewers would be kept confidential.

11. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond in view of Flickinger in view of Eldering as applied to claim 2 and further in view of Ismail et al (US 6,614,987 and hereafter referred to as "Ismail").

Regarding Claim 6, Zigmond, Flickinger, and Eldering disclose all the limitations of Claim 2. Zigmond discloses verifying that permission is available to access the received target content (Column 13, lines 48-58). Flickinger teaches, monitoring a content descriptor transmission stream for opportunity descriptors and content descriptors (Page 5, paragraph 0070). Flickinger discloses each received ad has a tag or "opportunity descriptor" associated with it describing the characteristics of the ad (Page 6, paragraph 0073). Further, this tag or "opportunity descriptor" can be used by the STB 200 to determine whether or not to store the received ad (Page 6, paragraph

0074). Zigmond, Flickinger, Eldering disclose, in particular Flickinger teaches, matching the opportunity descriptors with the receiver device's capabilities (Page 6, paragraph 0072). STB (Figure 2, 200) naturally can only store target content with associated opportunity descriptors that are compatible with STB (Figure 2, 200) capabilities. Flickinger teaches matching the content descriptors to the user characteristics (Page 5, paragraph 0070) and selecting the content descriptors with the strongest match to the user characteristics (Page 5, paragraph 0064). Flickinger teaches if the received target content is not already in storage, determining if the received target content can be acquired in a timely manner (Page 5, paragraph 0067). Flickinger discloses ad tags can be received and processed in advance to prevent from storing every received ad in storage. If the STB 200 determines the ad is appropriate based on the ad tag, then when the corresponding is received, the ad is immediately stored in memory. Eldering teaches acquiring the target content from the determined alternate source (Column 3, lines 26-38).

Zigmond, Flickinger, Eldering fail to disclose comparing the content descriptor matches of the received target content with the content descriptor matches of existing target content in the receiver's storage, to determine if the existing target content has weaker matches than the received target content and placing the acquired target content in storage.

In an analogous art, Ismail discloses comparing the content descriptor matches of the received target content with the content descriptor matches of existing target content in the receiver's storage, to determine if the existing target content has

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weaker matches than the received target content (Column 10, lines 32-62). Ismail discloses recording manager (Figure 2, 112, Figure 3, 112) causes recording of programs (Figure 1, 105) by using the received preference ratings from preference agent 110. The recording manager (Figure 2, 112, Figure 3, 112) then records programs or "target content" that have a high rating (Column 9, lines 59-67, Column 10, lines 1-10), to make room for newly received programs or "target content", recording manager (Figure 2, 112, Figure 3, 112) manages storage capacity by comparing the received program with a high rating to a stored program with a low or "weaker" rating (Column 10, lines 50-54). Ismail further discloses, placing the acquired target content in storage (Column 9, line 59-67, Column 10, lines 1-14).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Zigmond, Flickinger, Eldering to compare the content descriptor matches of the received target content with the content descriptor, matches of existing target content in the receiver's storage Column 10, lines 32-62), to determine if the existing target content has weaker matches than the received target content and placing the acquired target content in storage (Column 9, line 59-67, Column 10, lines 1-14) as taught by Ismail in order to maximize storage constraints by only storing target content that will be of high interest to the intended viewer.

12. Claims 7, 8, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond in view of Flickinger in view of Eldering as applied to claim 2 above, and further in view of Picco et al (US 6,029,045 and hereafter referred to as "Picco").

Regarding Claim 7, Zigmond, Flickinger, and Eldering disclose all the limitations of Claim 2. Zigmond, Flickinger and Eldering fail to disclose wherein a configuration is received by a micro decision engine (MDE) includes triggers that indicate to the MDE if components need to be replaced to enable dynamic adaptation to new feedback algorithms, improved functional capability, and/or component code fixes.

In an analogous art, Picco discloses wherein a configuration of a micro decision engine (MDE) includes triggers that indicate to the MDE if certain components need to be replaced to enable improved functional capability, by disclosing the scheduler may generate command signals for the set-top box or "MDE" which, for example, request the set-top box to update a local content control block, indicate a new download to the set-top box, download software updates to the set-top box for the software being executed by the set-top box, or download a control strategy to the set-top box to improve functional capability (Column 7, lines 33-67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond, Flickinger and Eldering to include a configuration of a micro decision engine (MDE) includes triggers that indicate to the MDE if certain components need to be replaced to enable improved functional capability (Column 7, lines 33-67) as taught by Picco for the benefit of keeping the set-top box up to date with software updates.

Regarding Claim 8, Zigmond, Flickinger, Eldering and Picco disclose all the limitations of Claim 7. Zigmond discloses the ad selection criteria are received at the receiver from advertisers and broadcasters (Figure 5). Picco teaches wherein the MDE receives the user characteristics from an operator by disclosing the local content includes content profiles that indicate to the set-top box or "MDE" the interest of local content for viewers in the household (Column 2, lines 49-49). If the content profiles match with the user preferences then the local content is stored on disk (Column 13, lines 36-65, Column 2, lines 49-49).

Regarding Claim 11, Zigmond, Flickinger, Eldering and Picco disclose all the limitations of Claim 8. Picco discloses wherein a plurality of instances of the MDE can be generated to match one or more of the capabilities and requirements of the receiver device and the capabilities of a plurality of receiver models on the network (Column 7, lines 41-48).

13. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond in view of Eldering et al (US 6,704,930 and hereafter referred to as "Eldering2").

Regarding Claim 13, Zigmond discloses all the limitations of Claim 12. Zigmond discloses a receiver component (80 - figure 5) including: a data filter for filtering data (84- figure 5; Column 15, lines 17-23); and a micro decision engine (83 - figure 5) for providing the guidance and commands to present content to the end-user from the data filter (Column 11, lines 31-49). However, Zigmond fails to disclose a head end



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component. In an analogous art, Eldering2 discloses a head end component (Figure 11) including: a content schedule component (Figure 11, 203) having: a content schedule database, and a content scheduler for accessing the content schedule database to provide schedule triggers (Column 8, lines 58-65). Eldering2 discloses a head end component further having a profile component (Figure 11, 221) having: a profile database; and a profile scheduler for accessing the profile database to provide profile triggers (Column 9, lines 15-24). Eldering2 discloses a head end component further having a matching engine (Figure 11, 201) for accessing the content schedule and profile components to match content to end-users (Column 9, lines 37-43). Eldering2 discloses a head end component further having a delivery engine for delivering the matched content (Column 9, lines 53-58). Although not shown, the head end component must have a delivery engine in order to facilitate transmission of the multiplexed stream to subscribers. Eldering2 discloses a head end component further having a combiner (Figure 11, 245) that receives the delivered matched content and combines it with available content streams (Column 9, lines 44-52). Eldering2 discloses a data network between the head end and the end-user components for transmitting data (Column 9, lines 53-58).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond to include a head end component (Figure 11) including: a content schedule component (Figure 11, 203) having: a content schedule database, and a content scheduler for accessing the content schedule database to provide schedule triggers (Column 8, lines 58-65); a profile component

(Figure 11, 221) having: a profile database; and a profile scheduler for accessing the profile database to provide profile triggers (Column 9, lines 15-24); a matching engine (Figure 11, 201) for accessing the content schedule and profile components to match content to end-users (Column 9, lines 37-43); a delivery engine for delivering the matched content (Column 9, lines 53-58); a combiner (Figure 11, 245) that receives the delivered matched content and combines it with available content streams (Column 9, lines 44-52), and a combiner (Figure 11, 245) that receives the delivered matched content and combines it with available content streams (Column 9, lines 44-52) as taught by Eldering2 for the benefit of providing a management system to control the insertion process of target content in a multiplexed stream (Column 1, lines 46-53) as disclosed by Eldering2.

Regarding Claim 14, Zigmond and Eldering2 disclose all the limitations of Claim 13. Zigmond and Eldering2 fail to explicitly disclose wherein the delivery engine is provided in a plurality of instances to provide for load balancing and capacity requirements. The examiner gives Official Notice that it is notoriously well known in the art of video distribution systems to provide systems that provide load balancing to prevent a server from being overwhelmed with requests for content. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond and Eldering2 to implement a system that provided load balancing and capacity requirements for the benefit of preventing an overload of bandwidth throughout the system.

Applicant's failure to adequately traverse the Examiner's taking of Official Notice for Claim 14 in the last two Office Actions is taken as an admission of the facts noticed.


**Conclusion**

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Farzana E. Hossain whose telephone number is 571-272-5943. The examiner can normally be reached on Monday to Friday 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FEH  
October 12, 2006

  
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SUPERVISORY PATENT EXAMINER  
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